APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,896	12/10/1999	MICHAEL C. BERTRAM	533/038	9421

26291   7590   05/03/2004
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702

EXAMINER
MOLINARI, MICHAEL J

ART UNIT	PAPER NUMBER
2665	23

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _05 April 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-17_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-14,16 and 17_ is/are rejected.

7)☒ Claim(s) _15_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claim 1 recites the limitation "said navigational assets" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-6, 8-13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson et al. (U.S. Patent No. 5,745,696) in view of Brooks et al. (5,826,166).

5.   Referring to claim 1, Mendelson et al. disclose in an information distribution system providing content data (Transport Stream, see column 8, lines 23-30) and asset data (Data Other than the Transport Stream, see column 8, lines 23-30) to at least one subscriber, apparatus comprising: a NULL packet inserter, for inserting NULL transport packets within a transport stream including content packets (Fill Cell Generator, see column 7, lines 58-67 and column 8, lines 23-30); and a transport processor, for replacing at least some of said NULL packets with asset packets, said asset packets being associated with said content packets to produce a

composite transport stream (see column 8, lines 23-30). Mendelson et al. differ from claim 1 in that they fail to disclose that said asset packets comprise navigational information for facilitating control and presentation of navigational menus for selecting content. However, multiplexing navigational data into a transport stream is old and well known in the art. For example, Brooks et al. teach that transport of menus for selecting content (see column 8, lines 66-67, column 9, lines 1-35, and column 13, lines 15-53), which has the advantage of making it easy for a subscriber to choose a desired channel. One skilled in the art would have recognized the advantage of transporting menus for selecting content as taught by Brooks et al. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to incorporate the transporting of menus for selecting content as taught by Brooks et al. into the invention of Mendelson et al. to achieve the advantage of making it easy for a subscriber to choose a desired channel.

6.   Referring to claim 2, Mendelson et al. disclose a first transport packetizer, for packetizing said asset data to produce said asset packets (see Figure 7, #711); and a second transport packetizer, cooperating with said NULL packet inserter, for packetizing said content data and producing said transport stream including content packets (see Figure 7, #711).

7.   Referring to claim 3, Mendelson et al. disclose storage means, coupled to said transport processor, for storing said asset packets and said transport stream including content packets and NULL packets (Cell Buffers, see column 8, line 23).

8.   Referring to claim 4, Mendelson et al. disclose storage means, coupled to said transport processor, for storing said asset packets and said transport stream including content packets and NULL packets (see Figure 7, #721).

9.   Referring to claim 5, Mendelson et al. disclose a session controller, for interacting with a

subscriber to receive a content request; said controller causing a transport stream including said

requested content packets and NULL packets to be provided to said transport processor; and said

controller causing asset packets associated with said requested content to be provided to said

transport processor (Set-top Box, see column 4, lines 60-64).

10.   Referring to claim 6, Mendelson et al. disclose that said NULL packet inserter is

responsive to a bandwidth reservation signal to provide a number of NULL packets inserted into

said transport stream including content packets (see Figure 7, #722).

11.   Referring to claim 8, Mendelson et al. disclose that said transport processor is responsive

to an asset rate control signal to adapt a utilization level of said NULL packets (see Figure 7,

#722).

12.   Referring to claim 9, Mendelson et al. disclose that said transport processor is responsive

to an asset count signal to replace a plurality of NULL packets with each asset packet (see Figure

7, #722).

13.   Referring to claim 10, Mendelson et al. disclose in an information distribution system

providing content data (Transport Stream, see column 8, lines 23-30) and asset data (Data Other

than the Transport Stream, see column 8, lines 23-30) to at least one subscriber, a method for

processing content and asset information comprising the steps of: inserting, within a transport

stream including content packets, a plurality of NULL packets (see column 7, lines 58-67 and

column 8, lines 23-30); replacing at least some of said NULL packets with asset packets, said

asset packets being associated with said content packets to produce a composite transport stream

including said navigational information (see column 8, lines 23-30). Mendelson et al. differ

from claim 1 in that they fail to disclose that said asset packets comprise navigational

information for facilitating control and presentation of navigational menus for selecting content.

However, multiplexing navigational data into a transport stream is old and well known in the art.

For example, Brooks et al. teach that transport of menus for selecting content (see column 8,

lines 66-67, column 9, lines 1-35, and column 13, lines 15-53), which has the advantage of

making it easy for a subscriber to choose a desired channel. One skilled in the art would have

recognized the advantage of transporting menus for selecting content as taught by Brooks et al.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the

invention to incorporate the transporting of menus for selecting content as taught by Brooks et al.

into the invention of Mendelson et al. to achieve the advantage of making it easy for a subscriber

to choose a desired channel.

14.   Referring to claim 11, Mendelson et al. disclose that said asset packets are processed

according to the steps of: packetizing, using a transport packetizer (see Figure 7, #711), at least

one information stream comprising an asset information stream comprising an asset information

stream, said asset information stream being associated with a content stream (see column 7, lines

58-67 and column 8, lines 23-30).

15.   Referring to claim 12, Mendelson et al. disclose that said asset information stream

comprises a plurality of asset information sub-streams (see column 7, lines 1-7).

16.   Referring to claim 13, Mendelson et al. disclose that said plurality of NULL packets to be

inserted into said transport stream including content packets is determined with respect to a

bandwidth reservation signal (see Figure 7, #722).

17.   Referring to claim 16, Mendelson et al. disclose that said step of inserting said asset

packets is repeated according to an asset injection count (see Figure 7, #722).

18.   Referring to claim 17, Mendelson et al. disclose the steps of: interacting with a subscriber

to receive a content request; retrieving a transport stream including said requested content

packets and any inserted NULL packets; and transporting, to said requesting subscriber, a

transport stream including said transport stream including said requested content and said

inserted asset packets (see column 4, lines 60-64).

19.   Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mendelson et al. (U.S. Patent No. 5,745,696) in view of Brooks et al. (5,826,166), further in

view of Hiroshima et al. (U.S. Patent No. 5,801,781).

20.   Referring to claim 7, Mendelson et al. in view of Brooks et al. differ from claim 7 in that

they fail to disclose that said second transport packetizer provides mapping data indicative of the

location of NULL packets within said transport stream including content packets and NULL

packets. However, providing mapping data for NULL packets in a data stream is old and well

known in the art. For example, Hiroshima et al. teach just such a method (see column 3, lines 9-

50), which has the advantage of enabling the system to easily find the NULL packets in the data

stream. One skilled in the art would have recognized the advantage of providing mapping data

as taught by Hiroshima et al. Therefore, it would have been obvious to a person with ordinary

skill in the art at the time of the invention to incorporate the provision of mapping data as taught

by Hiroshima et al. into the invention of Mendelson et al. in view of Brooks et al. to achieve the

advantage of enabling the system to easily find the NULL packets in the data stream.

21.   Referring to claim 14, Mendelson et al. in view of Brooks et al. differ from claim 14 in that they fail to disclose the step of providing mapping data indicative of the location of NULL packets within said transport stream including content packets and NULL packets. However, providing mapping data for NULL packets in a data stream is old and well known in the art. For example, Hiroshima et al. teach just such a method (see column 3, lines 9-50), which has the advantage of enabling the system to easily find the NULL packets in the data stream. One skilled in the art would have recognized the advantage of providing mapping data as taught by Hiroshima et al. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to incorporate the provision of mapping data as taught by Hiroshima et al. into the invention of Mendelson et al. in view of Brooks et al. to achieve the advantage of enabling the system to easily find the NULL packets in the data stream.

Allowable Subject Matter

22.   Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

23.   Applicant's arguments with respect to claims 1-14, 16, and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

24.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

25.   U.S. Patent No. 5,566,174 to Sato et al. teaches replacing idle cells with other

information in a video distribution system.

26.   U.S. Patent No. 5,933,607 to Tate et al. teaches contention for the use of idle or empty

cells.

27.   U.S. Patent No. 6,643,298 to Brunheroto et al. teaches a method of multiplexing a

plurality of programs into a single transport stream in a video distribution system.

28.   U.S. Patent No. 5,917,830 to Chen et al. teaches a method of splicing compressed

packetized digital video streams.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael J Molinari whose telephone number is (703) 305-5742.

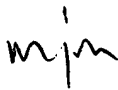The examiner can normally be reached on Monday-Thursday 8am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

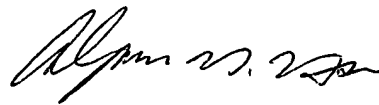system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Joseph Molinari

ALPUS H. HSU
PRIMARY EXAMINER